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Communal Treaty III
Japan

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AIRGRAM

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C: Sullivan FE
Kallin NA
Savoye 4/E
Arrows - Japan
Espenstade - Comm.

TO - AMEMBASSY TOKYO

SUBJECT: FCN treaty. Inclusion of Fair Labor Standards clause.

For sometime the Department, in common with other agencies of the U.S. Government, has been giving thought to ways and means of removing obstacles to the development of Japanese trade abroad. As the Embassy is aware, one great difficulty facing development of Japanese exports is the wide spread feeling that Japanese labor is under-paid ^{in consequence of which} and that consequently various restrictive measures arise in possible importing countries based on the theory that such restrictions are necessary in order to protect domestic labor against unfair Japanese competition. It occurs to the Department that one step toward ameliorating this difficulty might be to include a fair labor standards provision in the FCN treaty. Such a provision, of course, would have to be in general terms, and would be merely a preliminary step that might be followed by others later on. For example, for your information, there is now under consideration within the Government a project to propose the creation of a bipartite type commission to ^{survey} serve Japanese-American trade relations, and to make recommendations to the two Governments ^{within} concerning their prospective competence to further trade between the two countries and to promote proper understanding of various problems faced.

The Department

DEPARTMENT OF STATE A/CDC/MIR

REVIEWED BY *[Signature]*

DATE 9-30-82

RDS ☐ or XDS ☐ EXT. DATE

TS AUTH.

ENDORSE EXISTING MARKINGS ☐ REASON(S)

DECLASSIFIED ☐ RELEASED ☒

RELEASE DENIED ☐

PA or FOI EXEMPTIONS

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The Department has formulated in cooperation with the Department of Labor the following provision which it suggests be considered at Tokyo for inclusion in the FCN treaty:

"The two Parties, sharing a common interest in the achievement and maintenance of fair labor standards related to productivity and in the improvement of wages and working conditions as productivity may permit, recognize that the existence of labor conditions in export industries below those warranted by the productivity of the particular industry and the economy at large create difficulties in international trade. Accordingly, each Party undertakes through appropriate and feasible policies to foster labor conditions tending to avoid such difficulties in trade between their respective territories; and the two Parties will on appropriate occasions consult concerning possible measures to this end".

The timing and manner of broaching the ^{in principle} problem is left to the discretion of the Embassy. The Department appreciates that it is new material and has not been standard hitherto with treaties the U.S. has negotiated. The Department desires and feels that it would be very advantageous to have the provision in the treaty, but would wish the broaching of it to be handled in such a manner as not to interfere with the proper solution of any major issues which

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which have arisen in connection with the negotiations of the rest of the treaty. It should be emphasized that the Department is suggesting that this provision ^{be removed} follow from the viewpoint of trying to help the Japanese. The Department has no desire to attempt in this treaty to interfere in Japanese domestic social policy and is eschewing any intention of proposing this labor standards provision out of any selfish design. It would please the Department, indeed, should this provision appear to be proposed by the Japanese themselves.

The proposed labor standards provision properly belongs with international trade parts of the treaty, for it is related in its terms solely to the promotion of international trade. However, it does not fit in too well with any of the trade articles of the treaty, ^{hence}, for the time being, it is proposed that it be placed in the Protocol although a more appropriate position may be found for it as the text of the treaty begins to crystallize; and the Embassy and Japanese Government should feel free to use their best judgment as to where it should be placed.

At one time there was thought given to making reference to International Labor Organization in the proposed provision, but it has been decided not to do so. ^{Many} ~~Some~~ of the ILO Conventions have not come into force and very few of them have been ratified by the U.S. Government. Moreover the International Labor Organization has not

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has not dealt ^{with} in some of the more significant areas in the field of labor standards, such as wages. Certain suitable objective tests have been formulated, however, as will appear in the proposed text of the provision. Reference may be had to Article VII ¹ of the ^{Harmon} abandoned Charter for ^{in ITO} ~~EO~~ ₁

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AIRGRAM

77D 328
651 15939
Japan - Commercial Treaty
IV

TO - AMEMBASSY TOKYO

SUBJECT: FCN treaty. Inclusion of Fair Labor Standards clause.

For sometime the Department, in common with other agencies of the U.S. Government, has been giving thought to ways and means of removing obstacles to the development of Japanese trade abroad. As the Embassy is aware, one great difficulty facing development of Japanese exports is the wide spread feeling that Japanese labor is under-paid, in consequence of which various restrictive measures arise in possible importing countries based on the theory that such restrictions are necessary in order to protect domestic labor against unfair Japanese competition. It occurs to the Department's view that one step toward ameliorating this difficulty might be to include a fair labor standards provision in the FCN treaty. Such a provision, of course, would have to be in general terms, and would be merely a preliminary step that might be followed by others later on. For example, for your information, there is now under consideration within the Government a project to propose the creation of a bipartite type commission to survey Japanese-American trade relations, and to make recommendations to the two Governments within their prospective competence to further trade between the two countries and to promote proper understanding of various problems faced, including specific practicable steps that might be taken regarding labor standards.

The Department

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The Department has formulated in cooperation with the Department of Labor the following provision which it suggests be considered at Tokyo for inclusion in the FCN treaty:

"The two Parties, sharing a common interest in the achievement and maintenance of fair labor standards related to productivity and in the improvement of wages and working conditions as productivity may permit,

recognize that the existence of labor conditions in *particular* export industries below those warranted by the productivity of the particular industry and the economy at large create difficulties in international trade.

Accordingly, each Party undertakes through appropriate and feasible policies to foster labor conditions tending to avoid such difficulties in trade between their respective territories; and the two Parties will on appropriate occasions consult concerning possible measures to this end".

The timing and manner of breaching this provision is left to the discretion of the Embassy. The Department appreciates that it is new material and has not been standard hitherto with treaties the U.S. has negotiated. The Department ~~desires~~ and feels that it would be very advantageous to have the provision in the treaty, but would wish ~~the breaching of~~ it to be handled in such a manner as not to interfere with the proper solution of any major issues *the conclusion of the treaty, or*

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- 3 -

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has not dealt with some of the more significant areas in the field of labor standards, such as wages. Certain suitable objective tests have been formulated, however, as will appear in the proposed text of the provision. ^{For purposes of comparison,} Reference may be had to Article 7 of the Havana Charter for an ITO.